

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No: 05-cr-30039-MAP

UNITED STATES OF AMERICA

v.

JULIO MARIN

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DEFENDANT'S MOTION TO CONTINUE SENTENCING HEARING

The Defendant Julio Marin moves this Court to continue the sentencing hearing date set for September 6, 2006 to a convenient date not earlier than the end of October, 2006. A mental health evaluation is needed to support a possible diminished capacity downward departure, and the materials needed for that evaluation are still being accumulated. In support, Defendant states:

1. Undersigned counsel spoke with A.U.S.A. Todd Newhouse today who told me that I could represent that the government takes no position regarding this motion for continuance.
2. Undersigned counsel spoke with U.S. Probation Officer Pamela J. Lombardi today who told me that she could not assent to the motion, but that I could represent that she thought the additional mental health evaluation would be useful for sentencing purposes in this case.
3. Defendant is currently held and is facing a minimum mandatory sentence of 10 years. Accordingly, a delay in sentencing would not impact his total period of incarceration.
4. Defendant is facing a Guideline range above 20 years, and a downward departure for diminished capacity may have a significant impact in his ultimate sentence.

5. Defense counsel is still in the process of accumulating historical records records which would be useful for review by a mental health expert. It is believed that those records will be fully compiled in about three weeks time.

6. The additional time, until the end of October, is needed to afford the mental health expert adequate time to prepare a report.

7. Finally, undersigned counsel notes that currently a response to Probations' draft PSR is due August 23, 2006. If a continuance in the sentencing hearing is granted, counsel will have additional time to respond. Additional time to respond would be useful because undersigned counsel has scheduled vacation time all but two working days between now and August 23, 2006.

WHEREFORE, Defendant request that his motion for continuance be allowed.

JULIO MARIN, By His Attorney,

s/Myles Jacobson

Date: August 10, 2006

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